

REMARKS

By way of summary, Claims 1-28 were pending in this application, and the Office Action dated November 9, 2009, rejected Claims 1-28. By this Amendment, Claims 1, 17-20, and 25 are amended and Claims 10, 12-16, and 26-28 are canceled without prejudice or disclaimer, and Applicant respectfully reserves the right to pursue the prior subject matter in a continuing application. Accordingly, Claims 1-9, 11, and 17-25 are now pending in this application, and Applicant respectfully submits that these claims are now in condition for allowance.

Drawings

The Office Action objected to the drawings on grounds that the drawings did not depict all features of the claims. By this Amendment, the claims have been amended, and new and figures are provided. Applicant respectfully submits that no new subject matter has been entered through these amendments and that the figures are in compliance with requirements. Accordingly, Applicant respectfully requests the objection to the figures to be withdrawn.

Rejections under § 112

The Office Action rejected Claims 1-24 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This rejection was based on language in Claim 1, an apparatus claims, that the Office Action stated, "positively recites a step of expanding the stent ('is expanded')." Applicant has amended Claim 1 without prejudice or disclaimer and respectfully submits that Claim 1 is not in compliance with the requirements set forth in § 112. Accordingly, Applicant respectfully requests withdrawal of the § 112 rejection of Claims 1-24.

The Office Action also rejected Claims 12-15 under 35 U.S.C. § 112, second paragraph. Applicant has canceled these claims without prejudice or disclaimer and requests this rejection be withdrawn.

The Office Action also rejected Claims 10 and 12-15 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has canceled these claims without prejudice or disclaimer and requests this rejection be withdrawn.

Claim Rejection under § 102

The Office Action rejected independent Claims 1 and 25 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Publication No. 2002/0120276 to Greene et al. ("Greene"). By

this Amendment, Claims 1 and 25 have been amended, and Applicant respectfully submits that amended independent Claims 1 and 25 are now patentable over Greene least because Greene fails to teach or disclose all the recitations of the amended independent claims, as explained below.

Greene Reference

The Office Action stated that Greene “discloses a medical device for insertion into a bodily vessel to treat an aneurysm having an aneurysm neck.” The Abstract of Greene states that “[a]n embolization device includes one or more expandable, hydrophilic embolizing elements non-releasably carried along the length of a filamentous carrier that is preferably made of a very thin, highly flexible filament or microcoil of nickel/titanium alloy.” The Abstract continues: “In either of the embodiments, the embolizing elements may be made of a hydrophilic, macroporous, polymeric, hydrogel foam material.” Figure 13 of Greene is reproduced here for reference.

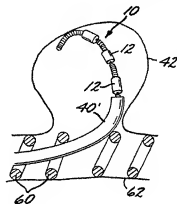


FIG. 13

Amended Independent Claim 1

Amended independent Claim 1 now recites, in part, “a mechanically expandable device expandable from a first position to a second position, said mechanically expandable device, when inserted into the bodily vessel, is expandable radially outward to the second position such that the exterior surface of said mechanically expandable device engages with the inner surface of the vessel so as to maintain a fluid pathway through said vessel; a membrane attached to the exterior surface of said mechanically expandable device, the membrane comprising a therapeutically effective amount of a chemical compound comprising a biosynthesis accelerator to stimulate cell growth, the membrane being configured such that when the device is inserted adjacent an aneurysm, the membrane faces the aneurysm and releases the chemical compound toward the aneurysm.”

Applicant respectfully submits that Greene fails to teach or disclose the device of Claim 1. Specifically, Applicant respectfully submits that Greene fails to teach or disclose at least a membrane attached to the exterior surface of said mechanically expandable device, the membrane comprising a therapeutically effective amount of a chemical compound comprising a biosynthesis accelerator to stimulate cell growth, the membrane being configured such that when

the device is inserted adjacent an aneurysm, the membrane faces the aneurysm and releases the chemical compound toward the aneurysm. Moreover, Applicant respectfully submits that Greene, alone or in combination with any cited reference, fails to teach or disclose all the recitations of amended Claim 1.

Applicant respectfully submits that amended independent Claim 1 is in condition for allowance, and Applicant respectfully requests withdrawal of the § 102 rejection of Claim 1. Additionally, Claims 2-9, 11, and 17-24 depend from Claim 1 and are patentable for at least the same reasons set forth above with respect to Claim 1, in addition to the patentable subject matter recited in each dependent claim. Accordingly, Applicant respectfully requests that the § 102 rejection be withdrawn with respect to Claims 1, 2-9, 11, and 17-24.

Amended Independent Claim 25

Amended independent Claim 25 now recites, in part, “positioning a mechanically expandable device into a bodily vessel proximate to the aneurysm neck, the mechanically expandable device comprising a membrane on an exterior surface of the device; releasing, from the membrane, a therapeutically effective amount of a chemical compound comprising a biosynthesis accelerator to stimulate cell growth within the aneurysm, wherein the chemical compound is released from the membrane toward the aneurysm.”

Applicant respectfully submits that Greene fails to teach or disclose the method of Claim 25. Specifically, Applicant respectfully submits that Greene fails to teach or disclose at least the step of releasing, from the membrane on an exterior surface of a mechanically expandable device, a therapeutically effective amount of a chemical compound comprising a biosynthesis accelerator to stimulate cell growth within the aneurysm, wherein the chemical compound is released from the membrane toward the aneurysm. Moreover, Applicant respectfully submits that Greene, alone or in combination with any cited reference, fails to teach or disclose all the recitations of amended Claim 25.

Applicant respectfully submits that amended independent Claim 25 is in condition for allowance, and Applicant respectfully requests withdrawal of the § 102 rejection of Claim 25. Accordingly, Applicant respectfully requests that the § 102 rejection be withdrawn with respect to Claim 25.

Claim Rejections under § 103

The Office Action rejected Claims 1–5, 8–19, 20, 23–24 under 35 U.S.C. § 103(a) as being unpatentable over various combinations of Greene and U.S. Patent No. 6,511,979 to Chatterjee, U.S. Patent Publication No. 2004/0220665 to Hossainy, U.S. Patent Publication No. 2003/0040772 to Hyodoh, and U.S. Patent Publication No. 2004/0078071. By this Amendment, independent Claim 1 has been amended, and Applicant respectfully submits that amended independent Claim 1 is patentable over the cited references at least because the cited references fail to teach or suggest all the recitations of the amended independent claim, as explained below. Although Applicant notes Claim 25 was not rejected under a § 103 rejection, Applicant respectfully submits that, as explained above with respect to the § 102 rejection, Claim 25 is in condition for allowance over the cited references. Applicant also notes that, by this Amendment, Claims 10 and 12–16 have been canceled.

Amended Independent Claim 1

As explained above with respect to the § 102 rejection of Claim 1, Applicant respectfully submits that Greene, alone or in combination with Chatterjee or any other cited reference, fails to teach or suggest the device of Claim 1. Specifically, Applicant respectfully submits that the cited references fail to teach or suggest at least a membrane attached to the exterior surface of said mechanically expandable device, the membrane comprising a therapeutically effective amount of a chemical compound comprising a biosynthesis accelerator to stimulate cell growth, the membrane being configured such that when the device is inserted adjacent an aneurysm, the membrane faces the aneurysm and releases the chemical compound toward the aneurysm.

Applicant respectfully submits that amended independent Claim 1 is in condition for allowance, and Applicant respectfully requests withdrawal of the § 103 rejection of Claim 1. Additionally, Claims 2–5, 8–9, 11, 16–19, 20, and 23–24 depend from Claim 1 and are patentable for at least the same reasons set forth above with respect to Claim 1, in addition to the patentable subject matter recited in each dependent claim. Accordingly, Applicant respectfully requests that the § 103 rejection be withdrawn with respect to Claims 1, 2–5, 8–9, 11, 16–19, 20, and 23–24.

CONCLUSION


In view of the foregoing amendments and remarks, Applicant respectfully requests favorable action on this application. If any questions remain, the Examiner is cordially invited to contact the undersigned attorney so that any such matters may be promptly resolved.

Any remarks in support of patentability of one claim should not necessarily be imputed to any other claim, even if similar terminology is used. Any remarks referring to only a portion of a claim should not necessarily be understood to base patentability on solely that portion; rather, patentability must rest on each claim taken as a whole. Applicant respectfully reserves the right to traverse any of the Examiner's rejections or assertions, even if not discussed herein. Applicant respectfully disagrees that any reference cited in the office action discloses a "base" method and that the claimed inventions are "improvements" of such a base method. Applicant also respectfully disagrees that other cited references contain "comparable" methods to those claimed. Applicant respectfully reserves the right to challenge later whether any of the cited references are prior art. Although changes to the claims have been made, no acquiescence or estoppel is or should be implied thereby; such amendments are made only to expedite prosecution of the present Application and are without prejudice to the presentation or assertion, in the future, of claims relating to the same or similar subject matter. Applicant reserves the right to contest later whether a proper reason exists to combine prior art references.

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Respectfully submitted,

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